

ARIZONA SUPREME COURT ORAL ARGUMENT CASE SUMMARY



STATE OF ARIZONA v. BENJAMIN BERNAL COTA CR-09-0218-AP

PARTIES:

Appellant: Benjamin Bernal Cota

Appellee: State of Arizona

FACTS:

Victor Martinez and Lupe Zavala, a married couple who lived in Peoria, were both last seen alive on December 30, 2003. Their bodies were discovered at their home on January 6, 2004. Benjamin Bernal Cota, a handyman, had been helping the couple with construction and redesign projects at their home. Police found a truck belonging to the couple at Cota's home on January 6 and when they attempted to stop Cota he fled in the truck. He was apprehended after he crashed the truck into a wall and fled on foot.

Cota was interrogated by police that night and was subsequently indicted for first degree murder, armed robbery, possession of narcotic drugs, and flight from the police. At trial, Cota was convicted of all charges. The jury sentenced Cota to death for the murder of Zavala, but was unable to reach a verdict on the murder of Martinez. The trial court subsequently sentenced Cota to natural life for the murder of Martinez and to maximum consecutive sentences on all but one of the non-capital counts.

ISSUES:

- 1. Did the trial court erroneously admit evidence of Appellant's flight from the police, erroneously instruct the jury that it could consider that flight as consciousness of guilt, and/or erroneously join Cota's two cases for trial?
- 2. Is A.R.S. § 21-202(B)(3), which precludes non-English speakers from serving on juries, unconstitutional?
- 3. Did the trial court err by striking prospective Juror 46 over Appellant's objection?
- 4. Were Appellant's statements from his interrogation admitted in violation of his rights under the Fifth and Fourteenth Amendments?
- 5. Were Appellant's constitutional rights violated when the trial court ordered that he either submit to psychological testing by the State's expert or forego presenting his own expert testimony at the penalty phase?
- 6. Did the trial court abuse its discretion by striking a juror for cause during the trial and designating three other jurors as alternates?
- 7. Did the trial court abuse its discretion by admitting autopsy photographs?

- 8. Did the trial court err by declining to declare a mistrial or impose more stringent sanctions for the State's discovery violations?
- 9. Did the trial court abuse its discretion by denying Appellant's motion for judgment of acquittal on the armed robbery and felony murder charges?
- 10. Did the trial court abuse its discretion by refusing to instruct the jury on manslaughter?
- 11. Should the trial court have granted Appellant's request for a mistrial after the presentation of victim impact testimony?
- 12. Did the trial court abuse its discretion by choosing not to conduct further investigation into whether a juror may have been sleeping?
- 13. Did the trial court abuse its discretion by declining to instruct the jury that Appellant could not be considered for parole?
- 14. Did the trial court abuse its discretion by declining to instruct the jury that sentences presumptively run consecutively?
- 15. Did the State's closing argument at the penalty phase constitute prosecutorial misconduct?
- 16. Did the trial court abuse its discretion by using Appellant's prior convictions to both enhance and aggravate his sentences and did the trial court abuse its discretion by sentencing Appellant to consecutive sentences because it thought such sentences were required by Arizona law?
- 17. Did the jury abuse its discretion in sentencing Appellant to death and is this standard of review constitutional?

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